

ULOP CRITERIA REFINEMENT SUBGROUP #3 MEETING
California Department of Water Resources, JOC Annex, North
Conference Room

June 25, 2013; 1:00pm to 4:00 pm

Contents

DWR Welcome and Framing	2
High Level Perspectives.....	2
Review of Subgroup 1 Discussion	3
Infill Exception.....	4
Exceptions for Small/Minor Projects	6
Concluding Remarks.....	6
Participants	7

Summary of subgroup suggestions are provided in a separate document titled: ULOP Criteria Refinement Subgroup Suggestions.

DWR Welcome and Framing

Adam Sutkus, facilitator, Center for Collaborative Policy welcomed participants and led introductions around the room. The meeting was convened to discuss two issues identified from the earlier Urban Level of Flood Protection (ULOP) Criteria Refinement Work Group meeting: (1) infill exceptions and (2) exceptions for small/minor projects. Subgroup 1 met the previous week and subgroup suggestions from the meeting were shared with this subgroup.

Mr. Sutkus reviewed the ground rules and gradients of agreement as a reminder that there are degrees of agreements that need to be considered. Mr. Sutkus reviewed the agenda for the meeting.

High Level Perspectives

Paul Marshall, Assistant Division Chief, California Department of Water Resources (DWR), provided a framing for this subgroup activity and discussion of infill exceptions and exceptions for small/minor projects. At this point, DWR is still evaluating whether or not these issues will be incorporated into the criteria.

A participant suggested that the group needs to identify agreement areas where the law allows opportunities to go beyond where discretion or local authority can be identified.

Mr. Marshall stated that DWR is seeking to develop the ULOP Criteria in a way that is reasonably implementable by the local agencies. This is the focus of the criteria – adhering to the law and implementability.

A participant commented that city and county attorneys share DWR's concerns about implementation of Senate Bill 5 (2007). City and county attorneys are looking for DWR's assistance in Senate Bill 5 (2007) compliance.

Mr. Marshall indicated that one concern is that those who apply for State funding will need clear guidance. Cities will be at a disadvantage when requesting State funding if the criteria requirements are not clear. For funding requirements, DWR can help incorporate the criteria into local ordinance templates to be adopted by those who want to apply for State funding.

Mr. Marshall reiterated that DWR needs the local agencies' technical expertise and partnership for this effort and that the criteria should be implementable regardless of how it will be used in the future.

A participant commented that the Delta Plan is going through the regulatory process and local agencies will not have a choice—the hope is that this ULOP process will not follow the Delta Plan model.

Mr. Marshall offered to share the participants' views with the agency and the general concern regarding how this process will move forward.

It was suggested that this issue be discussed with the larger ULOP Criteria Refinement Work Group at the July 16th meeting. It was noted that the local agencies felt that the process would be managed differently and criteria document written differently if it was a regulatory route.

A local representative mentioned a desire to continue and see what comes out of the discussion and focus on the technical aspect to ensure that it is useable as criteria. Later the issue can be resolved as to whether the criteria is to become a regulation.

Review of Subgroup 1 Discussion

Rebecca Guo, MWH, prepared a subgroups suggestions document based on the first subgroup discussion. Participants commented on the subgroup suggestions for the geographic scope and associated map. It was clarified that the preference was to remove the map or that the map needed to be renamed. Additionally, text may need to be added back: “the criteria is also available for voluntary application to lands outside the Sacramento-San Joaquin Valley.”

The area shown on the map was clarified as the “Sacramento and San Joaquin Hydrologic Regions.” There are ten hydrologic regions in California and the map depicts the Sacramento and San Joaquin Hydrologic Regions. Tulare Lake Hydrologic Region is a separate hydrologic region and therefore was not included in the map. It was commented that the law does not refer to hydrologic regions and that the definition excludes the Tulare Lake basin. The local agencies would like to be responsible for how the map is interpreted when determining if a project is within the Sacramento-San Joaquin Valley as defined in the legislation and a FEMA flood hazard zone. The map boundary should also be considered guidance. It was suggested, as a second option, that a more refined map be prepared excluding areas that clearly would not be encompassed within the definition.

Suggestions from the Subgroup 1 discussion and further subgroups clarifications will be provided to the ULOP Criteria Refinement Work Group at the plenary discussion on July 16th.

The Subgroup 1 discussion on shallow flooding definition was summarized to the group and it was commented that there is no specific place for this issue currently in the ULOP Criteria document. It was suggested that the definition be part of the flowchart and in the geographic scope (LOC) criteria.

A participant commented that the statute identified the intent to address deep flooding from levee breach or river bank overflow and therefore three feet is appropriate without the need for further examples in the definition. It was stated that it is unreasonable to recalculate all drainage calculations from 100-year to 200-year floods. Safety needs to be considered in the definition. It was noted that this definition was added to the law through Senate Bill 1278 (2012) and it was believed that the law only applies to deep riverine flooding.

DWR stated the discussion should focus on the law as is. DWR has to follow the law and seeks to write reasonably implementable criteria with input from local expertise.

Although each subgroup is charged with different issues, the process is intended to be iterative and cumulative. DWR continues to compile the subgroup suggestions and will present these subgroups suggestions to the ULOP Criteria Refinement Work Group at the plenary meeting in July.

In the discussion on local drainage, the east side of Natomas was provided as an example since this area is not entirely protected by levees and there is a gap in the levees that is threatened by overflow that can potentially result in deep flooding.

The Subgroup 1 suggestion to not modify the existing urban and developed urban definitions was presented without any comments from the participants.

Infill Exception

Michele Ng, project manager, DWR, gave background information on the infill exception issue that was included in the subgroup workbook. DWR is looking for comments on the criteria text to address infill exemption possibilities.

There were disagreements on the definition of infill among the participants. Some thoughts on infill included:

- There was disagreement on whether or not an amendment to legislation is needed.
- Infill areas are defined as small areas that are surrounded and are compatible with other developed areas.
- Some agencies allow replacement as infill.
- Infill may include existing buildings that are converted to different uses (condos require subdivision map).
- Projects in the Central Business District/ Urban Core are considered infill.
- Each jurisdiction should be allowed to make its own consideration of infill.

Mr. Marshall presented the Oak Park area in Sacramento as an example where there are some lots (of different sizes) that can be considered as infill projects. In this area, infill makes sense for environmental reasons and is good planning. In another part of Sacramento in the Natomas area, there are developments that should not be considered infill. Participants were unclear whether or not this example represents infill. The urban core area could be considered infill rather than outer areas that are unincorporated.

A participant stated that the law is clear that an agency may not approve land use permits without complying with Senate Bill 5 (2007) and that the local agencies should have the flexibility to determine how to approach infill. Senate Bill 5 (2007) was not clear on this issue.

The law as written may encourage leapfrog development to avoid urban development requirements.

The participants discussed the expert panel requirement to establish level of flood protection. The Draft ULOP Criteria include an expert panel process that the locals consider to be too involved, costly, and a time drain. Since existing development does not pay for flood improvements, the burden of those improvements will be on new development. It was suggested that the expert panel requirements may not make sense for small infill projects.

A participant stated that when a developer applies for a permit, they can imbed conditions that address infill and define the development type. Local agencies need flexibility to allow mixed zoning. Local agencies should define their urban core area.

Mr. Marshall responded that this flexibility may create a destabilized playing field if conditions vary among the agencies. Developers may pressure agencies with stringent definitions to loosen their requirements. DWR is uncomfortable with leaving the infill definition to the discretion of the local agencies. A participant suggested that planners be invited to the plenary meeting with definitions for consideration.

It was suggested that infill areas, for residential development, could be required to be elevated above the 200-year flood elevation. Other non-residential developments that pose less risk may be addressed with floodproofing methods (as designated by FEMA). Floodproofing was discussed in the context of mixed zone development of a commercial (e.g., Starbucks) with a second story residential. Since the residential unit is on top of the commercial unit, it is above the 200-year flood elevation and the commercial unit below can be floodproofed, thereby meeting the suggested ULOP requirements for infill. A participant clarified that the definition of an urban level of flood protection uses the term “withstand” rather than “prevent” flooding.

Ms. Ng suggested changing “infill exceptions” to “infill conditions” and to focus on setting minimum conditions for infill. Participants suggested changes to the criteria text to reflect this suggestion: “infill and small/minor imposed conditions that will allow cities or counties to make findings.”

The discussion turned back to residential infill (Natomas example) where maps are completed and infrastructure is in place to accommodate 75 homes. Some subgroup members felt this should not be considered infill, while others felt it should be considered infill. On the other hand, in areas such as Oak Park, it may not be right to impose conditions on single lots that are not imposed on surrounding lots. The intent was brought back to infill in core urban areas and the need for each city to define its own urban core area. Urban core areas are not defined anywhere and it will be difficult to refer to it in the text. Urban core areas may be defined by cities and counties when amending their General Plans as required by Senate Bill 5 (2007).

Participants clarified the minimum freeboard requirements for base flood elevation for both 100- and 200-year floods based on FEMA requirements. The Central Valley Flood Protection Board regulation is different than the building code or FEMA requirements. A participant stated that the ULOP Criteria text is redundant since the building code and law is in effect and suggested modification to the text: EVD-2 text: “~~Allow within infill areas only~~, Within urban core areas* in a moderate Flood Hazard Area only, allow elevation above the 200-year flood elevation, dry flood proofing for residential or wet flood proofing for non-residential. (*As determined by the city or county in their General Plan amendments.)”

Based on this discussion, the suggested criteria text would include reference to urban core areas. In addition, there was a subgroup suggestion to modify the criteria text whenever parcel maps were referenced to conform to planners’ terminology and process.

All suggestions are reflected in the document titled: ULOP Criteria Refinement Subgroup Suggestions.

Exceptions for Small/Minor Projects

The issue of small/minor project was deferred to Subgroup 2 discussion.

Concluding Remarks

Mr. Marshall reiterated that DWR will bring these suggestions to the discussion with the ULOP Criteria Refinement Work Group at the plenary session.

A participant reiterated that the discretionary permits process is very complex. David Storer, Sutter Butte Flood Control Agency, will brief the DWR team on the permits planning perspective on July 11th. Work group members and interested parties are welcome to attend.

Participants

Name	Affiliation
John Maguire	San Joaquin County
Michael McDowell	City of Stockton
Connie Perkins (phone)	City of Sacramento
Terry Rivasplata (phone)	American Planning Association
David Storer	American Planning Association
Carl Walker	City of Roseville
DWR ULOP Team	
Paul Marshall	DWR
Michele Ng	DWR
Allan Oto	DWR
Michael Musto	DWR
Yung-Hsin Sun	MWH
Rebecca Guo	MWH
Adam Sutkus	CCP
Orit Kalman	CCP